

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TAKEDA PHARMACEUTICAL COMPANY
LIMITED, TAKEDA AMERICAS HOLDINGS,
INC., TAKEDA PHARMACEUTICALS U.S.A.,
INC., and TAKEDA DEVELOPMENT
CENTER AMERICAS, INC.,

Plaintiffs,

vs.

CAREMARK RX, LLC,

Defendant.

Miscellaneous Case No. 2:23-mc-111

Underlying Action pending in the United
States District Court for the Southern District
of New York, *In re Actos Antitrust Litig.*
(Coordinated Actions), Case No. 1:13-cv-
09244-RA-SDA

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 26.1

I, Rachel J. Rodriguez, hereby certify as follows:

1. I am a Counsel at Elliott Kwok Levine & Jaroslaw LLP and have personal knowledge of all facts affirmed below.

2. My firm was retained to represent Takeda Pharmaceutical Company Limited, Takeda Americas Holdings, Inc., Takeda Pharmaceuticals U.S.A., Inc., and Takeda Development Center Americas, Inc. (collectively, “Takeda”) in *In re Actos Antitrust Litig.* (Coordinated Actions), No. 1:13-cv-09244-RA-SDA (the “Actions”), currently pending before the United States District Court for the Southern District of New York. The Actions consist of two coordinated, related cases: *In re Actos End-Payor Antitrust Litig.*, No. 13-CV-09244 and *In re Actos Direct Purchaser Antitrust Litig.*, No. 15-CV-03278.

3. I hereby certify, pursuant to Local Rule 26.1, that Takeda has made numerous reasonable efforts to resolve the instant discovery dispute with Caremark Rx, LLC (“Caremark”) beginning more than a year ago.

4. On March 30, 2022, Takeda served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action dated March 29, 2022 (the “Subpoena”) upon Caremark by process server.

5. As documented in detail in the Motion to Compel Compliance with the Subpoena and my declaration submitted herewith, since my firm was retained by Takeda in August 2022, I have had a meet-and-confer with Caremark’s attorneys, and sent them numerous emails and letters attempting to resolve disputes between Caremark and Takeda regarding Caremark’s failure to respond to the Subpoena.

6. Since the September 2022 meet-and-confer, Caremark’s attorneys have utterly refused my numerous requests to schedule additional meetings and have chosen not to substantively reply to my numerous emails and letters seeking Caremark’s compliance with the Subpoena.

7. This lack of communication or commitment to comply comes despite Takeda’s repeated offers to lessen the scope of the original Subpoena.

8. Since January 27, 2023, Caremark’s attorneys have not communicated with Takeda regarding the Subpoena in any form whatsoever.

9. Most recently, on May 3, 2023, I sent Caremark’s attorneys an email advising them that Takeda would be filing a motion to enforce the Subpoena if we did not hear from them by May 10, 2023. Takeda has received no response to that email.

10. Accordingly, Takeda have exhausted all reasonable efforts to resolve this conflict with Caremark before filing the instant Motion to Compel Compliance with the Subpoena.

I hereby swear under penalty of perjury that the foregoing statements made by me are true.

Dated: New York, NY
July 26, 2023

/s/ *Rachel J. Rodriguez*
Rachel J. Rodriguez

ELLIOTT KWOK LEVINE & JAROSLAW LLP
565 Fifth Avenue, 7th Floor
New York, NY 10017
(212) 321-0510
rrodriguez@ekljlaw.com